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Reasonable Efforts, Unreasonable Effects: A Retrospective Analysis of the 'Reasonable Efforts' Clause in the Adoption Assistance and Child Welfare Act of 1980

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Hidden in the Adoption Assistance and Child Welfare Act of 1980 are two words that came to summarize the expectations of the law, typify its vagueness, and predict its controversy—"reasonable efforts." This article explores five factors to clarify the policy implications of the reasonable efforts phrase:

- *the disproportionately large effects of the requirement for "reasonable efforts;"*
- *the unanticipated consequences of the clause;*
- *the shift in the locus of control from social service agencies to court authorities;*
- *the reduction in discretion for direct and administrative social work personnel; and*
- *the social, political, and economic realities that framed the reasonable efforts debate.*

"One of the greatest delusions in the
world is the hope that evils in the
world are to be cured by legislation"
(Cole, 1983, p. 39).

The legislative framers wanted to stop foster care drift, to change the prevailing philosophy from rescuing children to preserving families, and to establish procedural safeguards for children and parents. After years of debate and compromise, the

values and intentions of child welfare advocates and legislators were captured in the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). Hidden within the landmark legislation were two words that, over the years, would come to summarize the expectations of the law, typify its vagueness, and predict its controversy—"reasonable efforts." That undefined prescript has come to dominate practice with profound impact on the lives of children, families, social workers, administrators, judges, and attorneys in the child welfare system. The drafters of the legislation never suspected that the reasonable efforts clause would become the key mechanism for enforcing the intent of the law. Passed in 1980 the law encompassed the Carter Administration concern that states provide quality care for children and families. Soon, however, it collided with the Reagan forces determined to reduce government intervention and cut Federal costs.

This article will explore five explanatory factors in an attempt to clarify the policy implications of the reasonable efforts phrase. It will begin with a brief statement of the historical perspective and end by linking the factors in an interpretive framework. Specifically attention will be focused on:

- the disproportionately large effects, given the limited legislative attention, of the requirement for reasonable efforts;
- the unanticipated consequences of the clause;
- the shift in the locus of control for certain child welfare decisions from social service agencies to court authorities;
- the reduction in discretion for direct and administrative social work personnel that accompanied the shift; and
- the environmental (social, political, and economic) realities that framed the reasonable efforts debate.

Introduction

The term "reasonable efforts" appears twice in the law.¹ First as part of a requirement that states prepare a plan assuring compliance with sixteen items including "... effective October 1, 1983 . . . in each case, reasonable efforts will be made (A) prior to placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make

it possible for the child to return to his home . . ." (96-272; Sec. 471(a)(15)).

Second, the act requires the courts to review agency actions or "efforts" to determine if they are "reasonable." Specifically " . . . the removal from the home was the result of a judicial determination . . . that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts . . . have been made . . ." (96-272; Sec. 472(a)(1)). A positive determination of reasonable efforts must be made for social service agencies to qualify for federal matching funds for an eligible child.

There is a curious underlying philosophy in reimbursing states for AFDC foster care only. Approximately 40 percent of children in care qualify for AFDC (House of Representatives, Report 101-395, 1990) and the funding patterns still favor out-of-home care. A state social service official testifying before the Select Committee on Children, Youth, and Families was clear:

. . . [I]f there is a IVE eligible child in foster care . . . the Federal government subsidizes that placement . . . 40 or 50 percent. When the state decides that the child should go home . . . suddenly the state has to pay the full boat. There's absolutely no incentive to reunify those families (House of Representatives Report 101-395, 1990, p. 77).

Nowhere in the law or the subsequent regulations are the words "reasonable efforts" defined; that is left to the states and their court systems. A few states have included definitions in relevant statutes, but their attempts have added little real clarity. "Reasonable efforts" becomes "reasonable diligence and care" in Florida and "due diligence" in Minnesota (Shotton, 1990, p. 225). In the simplest context, reasonable efforts is whatever a court says it is, but this begs the question and allows for great variation (Seaberg, 1986).

Vagueness is not unusual in policy. Legislative teams devise policies because they want changes in the external world. Policy intentions are often not written in the legislation because they reflect the expectations, or hopes of policy framers about the effects or outcomes of policies (Jansson, 1990, p. 381). The interpretations are crafted later in regulatory or judicial language.

In the last decade, extensive litigation, more than 80 cases in 20 states, has been brought on behalf of children in state care through the child welfare, juvenile justice, and mental health systems (House of Representatives Report 101-395, 1990, p. 195). Failure to make "reasonable efforts" has been a contributing factor in at least 46 cases of violation of P.L. 96-272. Virtually all have been settled against the agency through class action suits, consent decrees, or agreements in which the court retained a monitoring function (House of Representatives Report 101-395, 1990, p. 195).

One case, *Suter v. Artist M.*, began in Illinois and ended in a Supreme Court decision in March of 1992. The ruling determined that beneficiaries of the Adoption Assistance and Child Welfare Act of 1980 do not have a private right, under the act itself or under a civil rights statute, to sue to enforce its provisions including the reasonable efforts component (Kopels & Rycraft, 1993; Senate, 1992). The law requires only that states write and have approved state plans which address reasonable efforts; it does not, according to the Court, require that the plan be implemented.

In essence the Court recognized that the law was written in vague language and therefore Congress had not intended to create a private enforcement right (American Journal of Law & Medicine, 1992). In the aftermath of the decision advocates worried that the Court had foreclosed lawsuits that challenge the states' practices based on the reasonable efforts provision (Kopels & Rycraft, 1993). Others heralded the decision as a protection against an avalanche of cases brought by individuals unhappy with the results of State Juvenile Court actions (Senate, 1992). Enforcement options still exist, however. The Department of Health and Human Services (HHS) may reduce the level of reimbursement to a state if the state plan is not administered and the court must still approve a child's removal and make findings that there have been efforts to reunify the family (American Journal of Law & Medicine, 1992).

Historical Perspective

The public law, including the reasonable efforts provisions, resulted from shifting societal attitudes and reform efforts of the preceding two decades. A distrust of traditional organizations, agencies, and professionals; an increased importance placed on

citizen participation; and a demand for cost containment, monitoring, and evaluation all left their mark on the legislation through the provisions for judicial oversight and establishment of case review and monitoring systems (Cole, 1983).

On June 17, 1980 President Carter signed P.L. 96-272 into law. Just over six months later the Carter administration proposed implementation of comprehensive regulations that received strong support from child welfare advocates. Many states, however, were against the regulations feeling they were too detailed and intrusive (NACAC, 1990). In the summer of 1981, the newly appointed Reagan officials opposed implementation of P.L. 96-272 as part of a larger attempt to cut social programs. Initial efforts to cap Title IVE were defeated in Congress, but the support for IVB has been consistently restricted. By 1990, allocations still had not reached the 1980 authorized funding level of \$266 million. The program began at \$163.5 million in 1981 and grew to only \$246.7 in 1989, less than a ten percent real increase in constant 1981 dollars (House of Representatives Report 101-395, 1990, p. 69).

The Reagan Administration stalled the regulatory process needed to carry out the Act's intent (NACAC, 1990) and the first regulations were not promulgated until May 23, 1983. Dubbed a virtual restatement of the act, they lacked the substantive directions of the Carter regulations and did not define reasonable efforts. These regulations were produced during the "paperwork reduction initiative" inaugurated during the Reagan era. Success was judged by the number of pages cut and descriptive regulations were seen as too much paper. It is the irony of the political process that states were desperate for direction during the early years of the Act, yet had rebuked the specificity of the originally proposed regulations.

Without definition states put valuable resources into developing systems that might or might not satisfy future requirements (NACAC, 1990). Federal audits for compliance with IVE were unclear and inconsistent.

Some states were found out of compliance when other states with . . . the same policies and practices were found in compliance. States within the same region were held to different standards (NACAC, 1990, p. 91).

Officials who had served in the Department of Health and Human Services (HHS) prior to and during the Reagan administration found the culture of the organization drastically and precipitously changed. Technical assistance was not part of the Department vocabulary and the Federal responsibility was defined as fiscal stewardship only.

One striking example serves to exemplify the crippling ambiguity. Between 1978 and 1981 HHS conducted 20 complete reviews of child welfare services in individual states. There were no penalties attached to the reviews, rather they were viewed as a mutual process of interpreting Federal intent and understanding state barriers. In 1981, in the middle of reviews, the staff received calls to come back to Washington, not to complete the partial reviews, and not to submit reports to the states. Aside from audit proceedings the Federal authorities were able to offer little assistance to states until 1989 when the review process was reinstated.

As states questioned the intent of the law, HHS published policy clarifications on an ad hoc, but prolific, basis. Officials estimated that by 1990 all the policies promulgated constituted a stack ten inches tall, and the collection included only *one* issuance concerning reasonable efforts. Again the terms were not defined. In 1994 states were reminded that:

(In) order to ensure implementation of the reasonable efforts requirements, states should include in their program manuals a provision that services will be provided to prevent removal . . . and that the judicial determination must include a finding to the effect that . . . reasonable efforts were made . . . (HDS Issuance January 13, 1984).

In case states were confused they are also reminded that:

. . . [I]f the court finds that the agency's preventive services efforts have not been reasonable, Federal financial participation may not be claimed for that child making . . . close communication and coordination between the state agency and the court . . . essential (HDS Issuance January 13, 1984).

The services considered "reasonable" were not listed in the Federal communique, but did receive limited attention in the legislative debate on the original bill.

Services must first be made available to the child and family and may include, for example, homemaker, day care, 24 hour crisis intervention, emergency caretaker, emergency temporary shelter, group homes for adolescents, and emergency counseling (House of Representatives Report 96-136, 1979, p. 46).

In sum, the reasonable efforts clause has assumed a significant importance demanding a consideration of factors that may explain its development.

Explanatory Factors

1). *The Incidental Essential:*

An Incidental Policy Phrase Becomes An Essential Implementation Issue. An oxymoron is an idiosyncratic ripple in the English language that allow contradictory words to be linked for emphasis like "incidental essential." "Reasonable efforts" is the *incidental essential* of the child welfare law as it has come to symbolize the lack of quality service, the often strained relationship between agencies and courts, and the battle cry of parents and children. The inclusion of the reasonable efforts clause in the law was incidental, yet its effect has proven to be surprisingly essential.

The "incidental essential" has fascinated policy analysts who have watched small beginnings have huge and unanticipated outcomes. A classic example is Moynihan's *Maximum Feasible Misunderstanding* in which he examined the Economic Opportunity Act of 1964. The act included a clause that community action programs be "... administered with the *maximum feasible participation* ..." of the poor (Moynihan, 1969, p. 89). Unnoticed it slipped by until the implementation stage when the true meaning of the words challenged the assumptions of politicians and professionals about who should hold power and control. Quoting a lawyer who had worked on a planning task force "... I don't think it ever occurred to me, or to many others, that the representatives of the poor must necessarily be poor themselves" (Moynihan, 1969, p. 180).

Similarly, Congress did not negotiate in detail the meaning of "reasonable efforts," but apparently assumed that it was central to the intent of P.L. 96-272. While in the course of debating the bill, some advocates made wholesale slashing charges against

agencies, foster parents, and social workers" (Pine, 1986, p. 349), there is no evidence that the deliberation included discussion of what constitutes "reasonable" efforts to forestall the problems being so vigorously attacked. Congress put faith in the courts to enforce "good practice" as would be determined on a case-by-case basis through the interpretation of reasonable efforts.

By 1990, ten years after the law, the "incidental essential" had become central. "[T]he requirement to make 'reasonable efforts'—the core of the law and premise behind preventive programs—had not been meaningfully implemented by HHS, and such efforts have not been made in many cases" (House of Representatives Report 101-395, 1990, p. 81).

2). *Systemic Suicide:*

Getting More Than Expected and Less Than Imagined. With any major legislation there is a risk that the meager money can not meet the grand design. Although there was an intent to support child welfare agencies to provide prevention and reunification services, the funds were not granted, but the legislative aims remained on the books. Early in the implementation phase social work professionals were leary, "I think that even if fully appropriated, the 266 million dollars will not be enough. But, having given it, the Congress may be lulled into a false sense of having 'once and for all' addressed the child welfare problem" (Cole, 1983, p. 39). The 1980s were also fiscally difficult for other programs aimed at remedying children's problems.

The Child Abuse Prevention and Treatment Act of 1974 saw a 20 percent drop in monies from 1981 to 1989 (in constant 1981 dollars) during a time when reports of child maltreatment were up 82 percent. [F]unding for the Juvenile Justice and Delinquency Prevention Act declined from \$100 million to \$66.7 million in ten years; and the federal support for mental health services [dropped to] \$503 million in FY 1989, \$17 million less than the sum of the categorical programs prior to consolidation into the block grant in 1981 (House of Representatives Report 101-395, 1990, pps. 71, 10).

Even recognizing the legislation as an opportunity for improved service, professionals feared failure as it would not cure all that was wrong with services to children and their families. "It

does not speak to the training of social workers, the size of their caseload, the quality of their supervision and leadership, or their turnover" (Cole, 1983, p. 39).

Indeed the reasonable efforts debate has highlighted deficiencies in social work preparation. The priority graduate schools place on the rehabilitation model ignores the public sector need for workers trained in social care modalities. For example it is possible for a MSW student to graduate without learning how to negotiate *with* a client; plan *with* a parent; make a proper referral; develop a strengths/needs assessment; write an ongoing, incremental case plan; and manage services. "The fact that there are very few social workers with enough training to implement fully a law calling for extremely skillful practice is another irony of child welfare" (Harrison, 1988, p 87).

Without addressing staffing or training concerns, the reasonable efforts requirement expects child welfare agencies to provide a "reasonable" level of service to remediate whatever problems brought the family to the attention of the protection authorities. The problem definition is likely to include needs for housing, alcohol or drug treatment, mental health intervention, or employment services. In most locales the child protection agency does not have direct control over the agencies that provide these services and can not ensure that a CPS client will receive efficient and effective services.

The reasonable efforts mandate has highlighted the lack of coordination among agencies serving families and exposed the problem-specific funding that typifies social service policy. Multi-problem families belong everywhere and nowhere, but the responsibility often rests with the child welfare agency. Although child welfare professionals may assert that protection agencies " . . . have not been established as society's response to poverty" they are often forced to assume that role (Horowitz, 1989, p. 10). The reform legislation of 1980 did nothing to " . . . address the poverty, unemployment, and racism at the core of so many of the biological parents' problems" (Cole, 1983, p. 39).

Calls for coordination of departments of mental health, public health, employment, income maintenance, education, and social services are wide-spread and pilot projects do exist. The intent of reasonable efforts, however, is often thwarted not only by

bureaucratic modes of operation emphasizing top-down management and specialized functions, but also by bureaucratic rivalries (Jansson, 1990). "Even if several agents are joint producers, the actions of each take place within the territory of others; and every social agent is essentially a territorial imperialist to some extent" (Downs, 1967, p. 216).

Perhaps the most significant factor affecting the implementation of reasonable efforts was the election of Ronald Reagan in 1980. His advocacy for deregulation and decentralization not only cut federal funding for child welfare services, but also curtailed assertive monitoring of the new policies (Jansson, 1990). Legislators, during hearings a decade after their initial effort, were distressed to hear that "... a recent review of the 1980 foster care reforms still found no conclusive evidence on the effects of the reforms" (House of Representatives Report 101-395, 1990, p. 81).

3). *Shift in the Locus of Control:*

Enter the Law of Control Duplication. In preparing the child welfare bill the drafting committee recognized that "... the entire array of possible preventive services are not appropriate in all situations. The decisions to the appropriateness of specific services in specific situations will have to be made by the administering agency" (House of Representatives Report 96-136, 1979, p. 47). That discretion, however, would be monitored by the courts and failure to meet the courts' unspecified standards would lead to a reduction in federal funds due the agency.

Whether seen as establishing a system of checks and balances or shifting the locus of control from the social service agencies to the court, the monitoring provision of the law has *not* enhanced the stability and predictability for clients. Research conducted in eight jurisdictions identified "... not a single site in our study where judges found a lack of reasonable efforts in a substantial proportion of cases" (Ratterman, 1986, p. 30). Imposing this additional level of court review has not yet produced the discrete discriminations on a case-by-case basis that the legislations intended.

According to the American Bar Association, judges have gaps in their preparation that make the reasonable efforts determination difficult:

- in many states there are no rules or procedures to require selection of judges specially qualified for juvenile court proceedings;
- no special training is required for judges handling maltreated children;
- judges are ignorant of mental health, drug abuse, and child abuse and neglect etiology and treatment; and
- judges often lack knowledge about the services available through the child welfare agency and the community (NACAC, 1990, p. 64).

Since the bench is totally dependent on others to present the facts of the case (Horowitz, 1989) information comes from attorneys representing the agency, the child, or the parents who have received their information from the social worker. There are indications, as outlined earlier, that social workers, even those with masters preparation and experience, need additional training to fulfill the intent of reasonable efforts. Now overloaded attorneys and judges must be added to the list of trainees so they can monitor the performance of overworked social workers and supervisors.

The increased number of cases before the court, including the reasonable efforts determinations, has caused legal representatives to request a shift in the allocation of funds to mirror the change in locus of control.

Fiscal incentives of the Act flow exclusively to social services agencies. . . . Already overburdened courts have no fiscal incentive and . . . no other reason to take serious the reasonable efforts requirement (House of Representatives Report 101-395, 1990, p. 83).

The legislative design requires an "explicit judicial determination that reasonable efforts to prevent removal have been made" (Congressional Record, 1979, S11708). Agencies and courts, however, have often opted for a type of acquiescence that does not reflect a meaningful judicial deliberation, like a pre-printed form signed by the judge or a checklist marked by the judge. The limited reviews conducted by HHS monitors for the existence of a determination by the court, but does not look at what services were actually delivered or the appropriateness of the services.

The oversight provision created by the act illustrates two "laws" postulated by observers of large bureaucracies:

The Law of Control Duplication: Any attempt to control one large organization tends to generate another.

Law of Ever Expanding Control: The quantity and detail of reporting required by monitoring bureaus tends to rise steadily over time, regardless of the amount or nature of the activity being monitored (Downs, 1967, p. 262).

The court now needs an organization to review the work of the service delivery organization.

4). *Reduction in Discretion:*

Watching the Many Watch the Few The importance and complexity of the decisions made in child welfare cases demands openness and collaboration. To argue against oversight would be to ignore the abuses that led to P.L. 96-272. To say social workers do not make serious errors in judgement and activity would be to defend the indefensible. Monitoring, by itself, however, does not improve service delivery. Ordering a social worker to find housing for a welfare mother who receives \$350 per month in an area where rents average over \$800 and the public housing waiting list is over four years does not make it happen. Barring extreme incompetency, the worker knew housing was needed and, had it been available, would have acquired it. Unless social service administrators, housing officials, real estate tycoons, landlords, city politicians, and the public become aware of the pressing need, the monitoring of this case has reinforced the obvious—the woman needs a place to live.

Guidelines offered to help attorneys and judges comply with the reasonable efforts requirement are detailed and proscriptive. If followed as written, the social worker would spend time briefing at least *three* attorneys and attorneys would re-investigate the entire case.

Attorneys representing any party in hearings in which reasonable efforts determinations are made have the following responsibilities. [Emphasis added]

1. Prior to representing a client in a dependency case, all attorneys should be familiar with:
 - a. the causes and available treatment for child abuse and neglect,
 - b. the local child welfare agency's procedures for complying with reasonable efforts requirements,

- c. the child welfare and family preservation services available in the community and the problems they are designed to address, and
 - d. local experts who can provide . . . consultation and testimony on the reasonableness of efforts.
2. Responsibilities after undertaking representation:
- a. interview the client . . . with the *agency social worker* present,
 - b. investigate the removal of the child,
 - c. investigate the reunification efforts,
 - d. interview staff of other agencies, and
 - e. review the agency's file.

In addition to the above responsibilities attorneys representing a child welfare agency should:

- 1. assure that the agency administrators make efforts to keep children in their homes,
- 2. accept the obligation to prove that reasonable efforts were made,
- 3. refuse to represent the child,
- 4. *interview the social worker*,
- 5. provide agency records to [other] attorneys,
- 6. subpoena witnesses who can testify to the efforts of the agency, and
- 7. provide the court with information about available community services.

Attorneys for parents and children should additionally:

- 1. determine the client's goals,
- 2. *interview the social worker*,
- 3. determine the ability to return home,
- 4. require evidence on efforts made by the agency,
- 5. subpoena witness to testify on behalf of the client,
- 6. present evidence,
- 7. request court orders for specific services, and
- 8. ensure that any settlement is incorporated in the case plan (NCJFCJ, 1989, p.13–17).

Depending on the system existent in a particular location a single case could be reviewed by numerous authorities—court appointed special advocates, administrative review teams, judges, attorneys, internal agency review teams, and federal auditors or state auditors. With minor exceptions the role of each of these systems is to do what a good social work supervisor can and should do: review the appropriateness of the case assessment, assure that the services are targeted and individualized, monitor

the provision of service, advocate for additional services, and remove workers who are unable to perform.

Some agencies have felt their discretion significantly curtailed and have interpreted the reasonable efforts clause to mean children can not be removed in an emergency if preventive services had not been attempted. While that was not the intent of the law, feeling all actions must be justified in hind-sight caused one worker to lament "Every time I go into an emergency situation I know that everyone from my supervisor to the judge will have hours to debate a decision I must make in several minutes."

5). *Changing Environment:*

Holding the World Still While the Policy Catches On. Policy pronouncements are forever—until they are changed. Social service needs are just forever. Since P.L. 96-272 was conceptualized and passed the condition of human need has intensified and the system of care has disintegrated. Witness 1988: 500,000 children in out-of-home care; 375,000 infants born drug exposed; deaths from child abuse totaled 1,200; 42 percent of the children who entered foster care were under six years old (House of Representatives Report 101-395, 1990, pps. 5, 7, 8).

At the same time, the legislative oversight committee noted that in hearings held over the ten year implementation period not one representative of a public agency had come before the Committee with anything near the recommended caseload number. "The 20-30 *children* per worker . . . standard was developed more than a decade ago when the problems were much less difficult and must less complex" (House of Representatives Report 101-395, 1990, p. 58). Despite the increasingly challenging cases, however, workloads top 80 *families* in many urban agency offices.

With needs expanding and resources contracting, policy and programmatic pundits are challenged.

We mount limited focus programs to cope with broad gauge problems. We devote limited resources to long-standing and stubborn problems. [W]e concentrate attention on changing the attitudes and behavior of target groups without . . . attention to the institutional structures and social arrangements that . . . keep them 'target groups' (Weiss in Gallagher, 1981, p. 45).

The changing environment in which the reasonable efforts criteria exists calls for a re-assertion of what is already known, but perhaps forgotten. A "back to basics" model of good casework practice is, in essence, the response to reasonable efforts as defined by a three point guideline:

- *sustained activity* with . . . the parents to engage and maintain them in relevant services including follow through despite rejection or denial, keeping a log of the date and substance of every contact noting new agreements of who will do what and when,
- *relevance of the services provided* to the problems that brought children into care . . . , and
- *accuracy of problem specification* upon which the case plan [is] based (Seaberg, 1986, p. 474-5).

Numerous court cases have challenged the 'reasonableness' of an agency's actions, for example, when the client was told what to do, but not actually assisted in meeting the conditions (Seaberg, 1986; Shotton, 1990). Agencies have failed to make reasonable efforts, according to court rulings, when services were not tailored to the mother's intellectual limitations, services were unrealistic in light of the financial circumstances of the parents, services were not provided to counteract the mental illness of the parent, the case plan did not include services aimed at locating housing when that was the sole reason for the agency's custody, and the agency had not transported a mother for visitation with a child in foster care (Shotton, 1990). In brief the agencies had not performed appropriate assessments and case plans, provided intensive case management, and remained focused on the presenting problems.

Juggling the possible vs. the probable; the absolute vs. the available; the realistic vs. the radical is the business of reasonable efforts. The official federal position was that reasonable efforts were limited to the services available, but unofficially there was a suspicion that agencies were not always as creative as possible in devising and funding new services.

Conclusion

Reasonable efforts is the ideological thrust of the permanency planning act. The intent is captured in the words "reasonable

efforts," but the concept is held hostage by the vagueness and varied interpretations of the clause. A multitude of hopes get compressed into one, little, overworked clause that grows stronger as the ability to meet its essence grows weaker. Decisions on the reasonableness of any action are made on a case-by-case basis, and therefore lack uniformity across the country and even within a jurisdiction. Has the agency behaved reasonably if a mother is offered drug treatment but refuses it because the clinic is across town? Has the intent of the law been met when housing is a need, but the worker is unable to find affordable lodging for a family? Would it be a reasonable expectation for a worker to see a family twice a week in one jurisdiction and not reasonable in another area?

An ideological framework for viewing reasonable efforts evolves. Begin with the notion that an important, but briefly stated concept was slipped into the law when P. L. 96-272 was introduced. Soon it became clear, however, that the reasonable efforts clause, and related provisions in the law, had shifted the complex decision making process in child welfare cases to the courts and had emphasized legal interpretations of casework practice tasks. The courts were untrained and unprepared for their new role, and the agencies lacked guidance and interpretation of what constituted a reasonable effort.

Ecological and economic shifts occurred to produce more difficult client problems to be met with reduced funding and limited Federal support. Client families were most likely to have needs that spanned the housing, health and mental health, and addiction continuum, as well as serious child protective issues. The result was an unanticipated consequence—reasonable efforts became the scapegoat for a lack of money, few qualified staff, and limited coordination among service agencies and the courts. What was initially a legislative afterthought became the focus of increasingly disparate interpretations and the center of numerous individual and class action litigations specifying actions that were not reasonable.

Regardless of the shifting sands of a changing environment, however, the real issue behind reasonable efforts is human value and a human rights-based responsibility (Seaberg, 1986). It is not worth doing because Federal money is attached, it is worth doing

because it is right that every child and family receive a "reasonable" level of care when their union is at risk. Reasonable efforts will never be ideal efforts, nor will they be minimum statements—they will be reasonable given the value placed on children. It would appear that the United States has exactly the kind and quality of child welfare system for which society is willing to pay (Besharov, 1985).

Note

1. The Adoption Assistance and Child Welfare Act of 1980 is an amendment to the Social Security Act which provides three major means of funding services: Title IVE pays a portion of the foster care rate for children who would otherwise be eligible for Aid to Families with Dependent Children (AFDC) payments on their behalf, Title IVB provides states money for child welfare services without Federally imposed income or categorical restrictions; and Title XX funds social service training.

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